



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

D'VORAH GRAESER  
THE POLKINGHORNS  
9003 FLORIN WAY  
UPPER MARLBORO MD 20772

**COPY MAILED**

**JUL 29 2005**

**OFFICE OF PETITIONS**

In re Application of  
Abraham Domb  
Application No. 09/869,519  
Filed: 17 September 2001  
Attorney Docket No. D01/166

DECISION  
ON PETITION  
37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed 25 April 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure submit the issue fee in a timely manner in reply to the Notice of Allowance mailed 26 May 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on 27 August 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

- (1) the required reply, unless previously filed, which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
- (2) the petition fee as set forth in 37 CFR 1.17(m);
- (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; the Commissioner may require additional information where there is a question whether the delay was unintentional.
- (4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995. In addition, a terminal disclaimer and fee is also required for a utility or plant application filed on or after June 8, 1995 but before May 29, 2000, where the application became abandoned (1) during appeal, (2) during interference, or (3) while under secrecy order. The reason being that utility and plant patents issuing on applications filed on or after June 8, 1995 but before May 29, 2000, are eligible for patent term extension under former 35 U.S.C. 154(b) as a result of the Uruguay

Round Agreement. See 35 U.S.C. 154(b) (1999); see also 37 CFR 1.701. If such an application is abandoned (1) during appeal, (2) during interference, or (3) while under secrecy order, the patentee of a patent issuing from such an application is eligible for patent term extension for the entire period of the abandonment while the application is under appeal, interference, or a secrecy order will be dedicated to the public.

The instant petition lack(s) item(s) (1) above, in that applicant failed to pay the issue fee.

Further correspondence with respect to this matter should be addressed as follows:

**By mail:** Mail Stop PETITION  
Commissioner for Patents  
Post Office Box 1450  
Alexandria, VA 22313-1450

**By hand:** Customer Window located at:  
  
2011 South Clark Place  
Crystal Plaza Two Lobby  
Room 1B03  
Arlington, VA 22202

**Central Fax:** (571) 273-8300  
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Erik Kielin at (571) 272-6051 or, in his absence, to the undersigned at (571) 272-3217.



Brian Hearn  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

**Attachment: Copy of Notice of Allowance and Notice of Allowability mailed May 26, 2004**